

UNITED STATES BANKRUTPCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

KATHLEEN ANN CLARK,

Chapter 13
Case No.: 19-44280-cec

Debtor.

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STIPULATION AND ORDER BY AND BETWEEN KATHLEEN ANN CLARK AND SN SERVICING CORPORATION VACATING THE ORDER DISMISSING THE ABOVE-REFERENCED CHAPTER 13 CASE AND VACATING THE FORECLOSURE SALE

WHEREAS, on July 12, 2019, Kathleen Ann Clark (the "Debtor") filed a petition *pro se* under Chapter 13 of the Bankruptcy Code; and

WHEREAS, the petition was filed on the day of a scheduled foreclosure sale of the Debtor's home known as 108-21 154th Street, Jamaica, New York (the "Property"); and

WHEREAS, Wells Fargo Bank, N.A. ("Wells Fargo") had commenced a foreclosure action against the Debtor in the Supreme Court of the State of New York, County of Queens which was assigned index number 705607/2013; and

WHEREAS, the foreclosure sale of the Property took place on July 12, 2019, the same day that the above-referenced Chapter 13 case was filed; and

WHEREAS, on September 3, 2019, the Bankruptcy Court entered an Order directing the Clerk's Office to dismiss the case pursuant Section 521 (i)(1) of Title 11 of the United States Code (the "Bankruptcy Code"); and

WHEREAS, on October 7, 2019, the Debtor filed an Emergency Motion to Vacate the Order of Dismissal for the purpose of seeking to set aside the foreclosure sale of the Property (the "Emergency Motion"); and

WHEREAS, on October 8, 2019, the Court entered an order Scheduling a Hearing on the Emergency Motion; and

WHEREAS, on October 31, 2019 SN Servicing Corporation as servicer for U.S. Bank Trust National Association as Trustee of Chalet Series IV Trust as assignee of Wells Fargo Bank, N.A SN Servicing Corporation ("SN Servicing Corporation") filed an objection to the Emergency Motion; and

WHEREAS, on November 5, 2019, the Debtor filed a Reply to the objection; and

WHEREAS, on November 7, 2019, a hearing was held on the Emergency Motion and Counsel for the Debtor and Counsel for SN Servicing Corporation appeared at that hearing; and

WHEREAS, the Court adjourned the hearing to December 19, 2019 for an evidentiary hearing on the Emergency Motion to determine the exact time of the foreclosure sale and whether it occurred before or after the time of the bankruptcy filing; and

WHEREAS, the Court has entered a Scheduling Order on November 18, 2019 regarding the evidentiary hearing on the Emergency Motion; and

WHEREAS, in the interest of conserving time and costs to the parties and in an effort to amicably resolve this motion, SN Servicing Corporation and the Debtor engaged in settlements negotiations; and

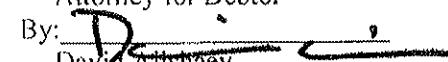
IT IS THEREFORE AGREED BY AND BETWEEN THE DEBTOR AND SN SERVICING CORPORATION THAT THE EMERGENCY MOTION SHALL BE RESOLVED AS FOLLOWS THAT:

1. The Order dismissing the above-referenced bankruptcy case entered on September 3, 2019 shall be vacated and the Debtor's Chapter 13 case shall be reinstated.
2. The Chapter 13 Trustee shall be reappointed to administer the above-referenced case and a Section 341 meeting shall be rescheduled.
3. The foreclosure sale of the property known as 108-21 154th Street, Jamaica, New York (the "Property") which took place on July 12, 2019 is hereby vacated and set aside.
4. The Debtor shall not bear any costs associated with the foreclosure sale held on July 12, 2019 and shall not be responsible for any costs incurred by SN Servicing Corporation in connection with the Emergency Motion and/or this Stipulation.
5. The parties agree to enter into loss mitigation program and consent to the Court entering an Order directing the parties to engage in loss mitigation.
6. Entering into this stipulation shall not be deemed an admission of an automatic stay violation by SN Servicing in connection with the July 12, 2019 foreclosure sale
7. Upon final Court approval of this stipulation, the Debtor agrees not to seek damages in connection with the foreclosure sale.
8. Nothing contained herein in this Stipulation of Settlement shall be deemed an admission of an automatic stay violation by SN Servicing Corporation.
9. The parties agree that the Bankruptcy Court has jurisdiction over any issues that may arise as a result of this Stipulation.

10. Upon Court approval of this stipulation, the Clerk of the Court shall vacate the Order dismissing the above-referenced bankruptcy case and reappoint the Chapter 13 Trustee.
11. In the event that this stipulation is not approved by the Court, the parties shall be restored to their rights and remedies as they existed prior to this Stipulation.
12. Upon Court approval of this Stipulation, the Debtor's Emergency Motion shall be marked settled.

Dated: Forest Hills, New York

1-7-2020

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Dated: Garden City, New York

1/7/2020

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SO ORDERED: